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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 02/14/2025

SPONSOR Jaramillo

BILL

SHORT TITLE Independent Theater Beer & Wine Licenses **NUMBER** Senate Bill 159

ANALYST Montano

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Fee	Up to \$4	Up to \$4	Up to \$4	Up to \$4	Up to \$4	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
RLD/ABC	\$40	No fiscal impact	No fiscal impact	\$40	Nonrecurring	General Fund
Total	\$40	No fiscal impact	No fiscal impact	\$40	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Regulation and Licensing Department (RLD)
 Tourism Department (TD)

Agency Analysis was Solicited but Not Received From
 List all agencies that failed to respond to a request for analysis.

SUMMARY

Synopsis of Senate Bill 159

SB159 (SB159) authorizes the issuance of Special Independent Theater Dispensing Licenses for the sale of beer and wine at independent theaters in New Mexico. The bill allows independent theater owners or operators to apply for a license from the Alcoholic Beverage Control Division for a \$100 fee, which is valid for one year and may be renewed annually for the same amount.

The license permits the sale of beer and wine exclusively to customers attending movie

screenings or other events at the theater. Sales are subject to limitations, including a two-drink maximum per customer (two 12-ounce servings of beer or two 6-ounce servings of wine). Licensed theaters must also ensure that alcohol is served with food and that all employees dispensing alcohol hold a valid server permit.

The bill requires that each license be approved by local governing bodies in the jurisdiction where the theater operates. Additionally, the license is non-transferable, meaning it cannot be moved between owners or locations.

To qualify as an independent theater, a business must:

1. Primarily operate as a movie theater and event venue
2. Be located in a single location
3. Be owned and operated by a New Mexico resident or registered business
4. Have been in existence for at least one year

The bill takes effect on July 1, 2025 and is designed to support independent theaters by expanding their revenue opportunities while maintaining public health and safety regulations.

FISCAL IMPLICATIONS

RLD would have to add this new license type to its electronic licensing system called NM PLUS. To implement the new license type would cost RLD around \$40 thousand to contract a professional to develop, program, test, and implement the new license type into the system. In order for RLD to have this license type available for the start of FY26, RLD will have to implement it in FY25.

RLD is projecting less than one thousand dollars of revenue a year due to the low number of independent theaters in New Mexico. Based on RLD's projection, the implementation of SB 159 will take at least forty years to generate enough revenue to cover the nonrecurring costs of implementing the new license type in RLD's online licensing system. Tripadvisor, a website that provides information for future travelers, had forty independent theaters currently active throughout the whole state of New Mexico. If every single independent theater in New Mexico purchased this license, then RLD would generate up to \$4,000 of revenue for the General fund.

SIGNIFICANT ISSUES

RLD had this to comment regarding significant issues:

SB159 requires that the business be in existence for a period of one (1) year before qualifying for a license. This may create conflict with the dormant commerce clause, as US Federal Courts have deemed residency requirements as unconstitutional, see *Tennessee Wine and Spirits Retailers Association v. Thomas*, 588 U.S. 504, 139 S.Ct. 2449 (2019).

Section D states that "Service of beer or wine *with food* (emphasis added) to customers of an independent theater shall be limited...". This is the only reference to a food requirement, so it is unclear whether beer & wine may only be served with food or if it can be served without food.

PERFORMANCE IMPLICATIONS

RLD believes that existing ABC staff will be able to handle the addition of a new license type, and all initial and renewal license applications SB 159 may cause.

NM/hj/rl